SNOHOMISH COUNTY
PUD
PUBLIC UTILITY DISTRICT NO. 1

Your Community Energy Partner

December 28, 2017

Mr. Glenn Blackmon
Washington State Energy Office
1011 Plum Street SE
P.O. Box 42525
Olympia, WA 98504-2525

Subject: **Comments of Public Utility District No. 1 of Snohomish County WAC 194-37-140(2) Rulemaking, WSR 17-23-185**

Dear Mr. Blackmon:

The Public Utility District No. 1 of Snohomish County (Snohomish) appreciates the opportunity to comment and participate in the rulemaking process for clarifications being considered to WAC 194-37-140(2), associated with the No Load Growth financial path, circulated by the Washington State Department of Commerce Energy Office (Commerce). After reviewing the materials provided, we offer a simple alternative calculation to demonstrating compliance with the No Load Growth provision.

Simple Alternative Calculation

Snohomish has interpreted the language, "…the utility's weather-adjusted load for the previous three years ***on average did not increase*** **[emphasis added]** over that time period," as determining whether the utility's **average change in load** for the previous three years, was an **increase** over that time period. Our understanding is that in order for a utility to comply with the statute, a utility must demonstrate that its weather adjusted load growth in the previous three years, on average, was less than or equal to zero.

Snohomish proposes the following language and calculation for consideration:

> **"The average change in weather-adjusted load, load growth, for the previous three years is less than or equal to zero."**

The 2018 compliance period would have the following mathematical expression to test if average load growth was less than or equal to zero (with all load numbers being expressed as weather-adjusted load):

$$(2017 \text{ Load Growth} + 2016 \text{ Load Growth} + 2015 \text{ Load Growth})/3 \leq 0.$$

Load Growth for a particular year would be defined as the weather adjusted load for a given year less the weather adjusted load for the previous year. Using this method, the expression above can be expanded as follows:

$$[(2017 \text{ Load} - 2016 \text{ Load}) + (2016 \text{ Load} - 2015 \text{ Load}) + (2015 \text{ Load} - 2014 \text{ Load})]/3 \leq 0.$$

By multiplying both sides of the equation by 3 and combining terms, this formula can be simplified to the following, which states that a utility's 2017 load must be lower than or equal to its 2014 load:

$$2017 \text{ Load} - 2014 \text{ Load} \leq 0.$$

This simple calculation derives the same mathematical answer as Commerce's Option B and provides several advantages:

1. Since this compliance method hinges on no load growth, if a utility can demonstrate zero or negative growth, then it is not growing over the test period, and satisfies this alternate compliance method;

2. The calculation is simple and easy to express in written form, increasing common understanding by utilities, eliminating multiple mathematical interpretations associated with the three year average;

3. This approach can easily be understood and audited by requiring a utility provide and verify two inputs; and

4. The methodology results in the same mathematical answer derived under **Option B** in Commerce's letter.

    a. **Option B** $(2017 \text{ Load} + 2016 \text{ Load} + 2015 \text{ Load})/3 \leq (2016 \text{ Load} + 2015 \text{ Load} + 2014 \text{ Load})/3$

    b. This formula can be simplified to be: $2017 \text{ Load} - 2014 \text{ Load} \leq 0$

In summary, Snohomish offers its interpretation as a consideration to clarify the rule. Alternatively, Snohomish can support Commerce's Option B, which provides the same mathematical result as the Snohomish simplified alternative shown above.

We thank you and other Commerce staff for seeking input through an open and inclusive process to further clarify these rules. Please contact me if you have any specific questions about our comments.

Sincerely,

Zac Yanez
Power Analyst

cc: Anna Berg, Senior Manager Power Supply
Tom DeBoer, AGM Generation, Power, Rates & Transmission Management
Jessica Matlock, Director Government Affairs

Clark Public Utilities
Customer-owned, customer-focused

Commissioners
Nancy E. Barnes
Jim Malinowski
Jane A. Van Dyke

Chief Executive Officer/ General Manager
Wayne W. Nelson

December 27, 2017

Washington Department of Commerce
State Energy Office
1011 Plum Street SE
Olympia, WA 98501-1530

Re: **COMMENTS OF CLARK PUBLIC UTILITIES ON THE RULEMAKING INQUIRY REGARDING THE ENERGY INDEPENDENCE ACT**

INTRODUCTION

These comments are submitted by Clark Public Utilities (Clark). They respond to the Rulemaking Inquiry (Inquiry), issued by the Department of Commerce (Department) on November 27, 2017, regarding the possible clarification or amendment of the method for determining whether a utility's weather adjusted load has grown, which method is set forth in Washington Administrative Code (WAC) 194-37-140. This WAC is intended to implement the alternative compliance path representing the no load growth qualification under RCW 19.285.040(2)(d) of the Energy Independence Act (EIA). Clark appreciates the opportunity to submit comments on this topic, as Clark has in the past and anticipates in the future using the no load growth provisions of the EIA for compliance.

These comments start with a discussion of the standard for judging the efficacy of an implementing regulation. This is followed by a review and analysis of the variety of methods for calculating whether load growth occurred set out in the Inquiry, including a discussion of the current method contained in WAC 194-37-140. These comments conclude with a discussion of the questions posed in the Inquiry regarding the purpose of the regulation, and whether the rule should be exclusive or permissive.

PROPOSED LOAD GROWTH CALCULATIONS

1. Statutory Requirements

The standard against which any proposed regulation must be judged is the statutory language it seeks to implement. The language of RCW 19.285.040(2)(d), which WAC 194-37-140 seeks to implement, provides in part:

> A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if: (i) The utility's weather-adjusted load for the previous three years on average did not increase over that time period;

Parsing this language, the statute requires that the average of the utility's weather-adjusted load for the prior three (3) years demonstrate that there has been no increase in load on average over that three-year time period. So the plain language of the statute requires that any regulation that purports to implement it use an *average* of the utility's *weather adjusted loads* for the *three years* *prior* to the compliance year to determine if there was load growth *over that three-year time period*. Any regulation that does not contain all of these elements is legally deficient on its face.

What the statute does not clearly state is how this three-year average of weather-adjusted loads is to be used to determine if there was growth during that three-year period. Or simply stated, what is the average of the three prior years' load compared to in order to determine the presence or absence of load growth is not expressly stated. However, as detailed below, this question is easily answered within the context of the statutory language and accepted utility practice.

2. WAC 194-37-140 Calculation Method

The current regulation for the implementation of the no load growth test under RCW 19.285.040(2)(d) provides in part:

> For each year that a utility meets the renewable energy financial cost cap, associated with no load growth, identified in RCW 19.285.040(2)(d), the utility must document the following by January 1:
>
> (2) That its weather-adjusted load for the most recent prior year is lower than the third year prior;

This regulation does not contain the key elements that the statute expressly states must be used to determine the presence or absence of load growth during the prior three-year period. It does not use an average of the three years of weather-adjusted load, and it does not measure load growth (or its absence) on average over the prior three-year period.

It has been argued that although these key elements are missing from the method set out in WAC 194-37-140, that method is algebraically equivalent to the statutory approach. This is both legally insufficient and unpersuasive. The fact that it takes over a

page of algebraic calculations to make this argument is commentary enough on its departure from the statutory language. See Attachment A. Further, the statute does not call for, or even reference, the algebraic equivalent of the simple comparison mandated by the statute. As evidenced by the examples below, the WAC calculation does not produce the same result as the approach in the RCW. A simple example demonstrates this fact:

Weather Adj. Load – Example 1

Compliance Year	2018	
1st Prior Year	2017	400 aMW
2nd Prior Year	2016	420 aMW
3rd Prior Year	2015	404 aMW
4th Prior Year	2014	410 aMW

Under the WAC, the 2017 loads are compared to the 2015 loads (400 aMW vs.404 aMW), which results in a no load growth determination. Under the statutory language, the average of the three years is 408 aMW, which when compared to the 4th prior year (410 aMW) also results in a finding of no load growth. However, a slightly different fact pattern produces very different results.

Weather Adj. Load – Example 2

Compliance Year	2018	
1st Prior Year	2017	400 aMW
2nd Prior Year	2016	440 aMW
3rd Prior Year	2015	404 aMW
4th Prior Year	2014	410 aMW

In this scenario, under the WAC approach (400 aMW < 404 aMW) there would still be a finding of no load growth. In contrast, under the statutory language, the average of the three years is 414 aMW, which when compared to the 4th prior year (410 aMW) would result in a finding that loads had grown on average over the prior three-year period. By failing to use the average loads of the prior three years, and by essentially deleting the second prior year load from the calculation, the WAC method can produce substantially different results than the statutory approach. While it may be argued that the above load pattern is unlikely to actually occur, the fact is that many consumer-owned utilities have seen just such load fluctuations during the recent recession.

The method contained in WAC 194-37-040 for determining load growth (or its absence) pursuant to RCW 19.285.040(2)(d) diverges from the statutory language, and fails to properly determine whether load growth has or has not occurred on average during the prior three-year period. It is not a legally acceptable interpretation of RCW 19.285.040(2)(d).

3. Proposed Alternative Load Growth Calculations Do Not Satisfy the Statute

The load growth calculation methods set out in the Inquiry as Options C, D, E, F and G all use averages and in that regard seek to follow the statutory language. However, they do not do so in a way that is useful in measuring whether there has been load growth, on average, over the period of the three prior years as required by the statute.

Some of these methods average the loads in the prior three years and then compare them with the first or third prior year used to compute the average (Options C and D). Some average two of the prior three years and then compare them with the first or third prior year (Options F and G). Still others compute two averages based on various combinations of the prior three years or two of the prior three years (Options B and E), and compare these averages.

None of these complicated comparisons are called for by the statute, and none are useful in meeting the statutory test, which is whether the weather adjusted loads of the utility during the prior three years did not increase on average over that period. While all of these variations are interesting, none of them answer this statutory question and none are legally sufficient.

4. Load Growth Calculations That Comply With the Statute

The statute poses a relatively simple question, “Did the weather adjusted load of the utility during the prior three years increase or not on average over that period?” So the starting point for implementing this statutory provision is averaging the weather adjusted loads of the utility from the prior three years. The question then is to what load or loads should this average of the three prior years be compared to determine if there has been no load growth over that period.

In this regard, recourse to standard electric utility practice provides the best guide. When an electric utility wishes to determine whether loads during a particular period have increased, it looks to the loads in the period immediately preceding that particular period for purposes of comparison. There is nothing complicated or mysterious about this. When a utility wants to determine whether there has been change in a particular period, it looks to the immediately prior period to measure that change. There is no reason to depart from this standard utility practice, or strive to create an overly complicated formula for what is, in fact, a simple comparison.

Option A as set forth in the Inquiry makes just this comparison. It calls for the averaging of the weather adjusted loads from the prior three years, and compares that average with the weather adjusted load from the fourth prior year, which is the year immediately preceding the prior three-year period. By doing so, Option A includes all of the statutory components (average of the weather-adjusted loads for the prior three-year period) and determines if there has been no load growth on average over that three-year period by

comparing that average to the weather adjusted load in the year immediately preceding the prior three-year period. This approach is simple, straightforward, comports with standard utility practice, and with the statutory language.

There is an additional option (designated Option H herein) which would also meet the statutory standard. This Option H would compare the average weather-adjusted load from the prior three-year period to the average of the weather adjusted load from the three years immediately preceding the prior three-year statutory period. Expressed mathematically, Option H would be stated:

$$\frac{2017 + 2016 + 2015}{3} \leq \frac{2014 + 2013 + 2012}{3}$$

This approach has the virtue of comparing like periods to like periods (both three year periods) and like averages to like averages (both weather adjusted loads) for purposes of determining whether there was load growth in the statutory prior three-year period. It does more than the statute calls for, but includes all of the elements that the statute spells out for making this load growth/no growth determination. It also is at least structurally consistent with standard utility practice in determining whether there has been an increase or decrease in a particular element.

It is Clark's view that either Option A or H would comply with the directives contained in RCW 19.285.040(2)(d) for determining whether there has been no load growth on average over the prior three-year period, but that Option A is the preferred option due to its simplicity. The other options included in the Inquiry, including WAC 194-37-140, are neither reasonable nor permissible constructions of the statute, and none satisfy the requirements of the statutory provision.

5. Purpose of the EIA and Form of Final Rule

The Inquiry requests comment on whether the options, or any particular option, would best advance the purposes of the EIA. It is unclear what purpose this request, or comments in response to it, are intended to serve. This purported "best advances" test is not recognized nor utilized within the rules of statutory interpretation, and appears to be in direct conflict with the basic tenants of statutory interpretation.

The underlying purpose of the EIA is to promote the use of renewable resources and conservation within Washington (RCW 19.285.010). It does so by setting performance standards with which qualifying utilities must comply (RCW 19.285.040). The EIA explicitly provides a number of different methods of compliance, including provisions designed to permit compliance by utilities with no load growth and hence no need for additional renewable resources to serve load (RCW 19.285.040(2)(d); RCW 19.285.050(1)(a). The purposes of the EIA are best served by interpreting all provisions of the EIA, including all aspects of the alternative compliance path of the no load growth

test, in a manner that harmonizes all of those provisions, and allows them to operate as intended, as required by the rules of statutory interpretation. Conversely, strained interpretations of particular provisions, such as the no load growth test in RCW 19.285.040(2)(d), to advance a particular purpose, such a requiring additional renewable resource acquisition, would violate the basic tenants of statutory interpretation and would be legally unsound.

The rules of statutory construction support this conclusion. They mandate that all provisions of a statute must be read *in pari materia,* and in a manner that allows all provisions to operate in harmony. *Northwest Forest Resource Council v. Glickman,* 82 F.2d 825, 833 (9th Cir. 1996). Said another way, one statutory provision cannot be interpreted to in an expansive or restrictive manner to advance another provision, or in a manner that renders another provision surplusage. *Boise Cascade Corp. v. E.P.A*., 942 F.2d 1427, 1432 (9th Cir. 1991). Further, strained interpretations of a specific statutory provision to achieve a particular goal are to be avoided*. Coulter v. Asten Group, Inc*., 155 Wash. App. 1, 5; 230 P.3d 168 (2010) citing *Kilian v. Atkinson*, 147 Wash.2d 16, 21, 50 P.3d 638 (2002). Most importantly for the statutory provision and WAC under discussion in this Inquiry, unless specifically defined in the statute, words of a statute must be given their ordinary meanings. *United Stated v. van den Berg*, 5 F.3d 439, 442 (9th Cir. 1993).

Taken as a whole, these rules of statutory interpretation require that each of the provisions of the EIA be interpreted in a manner that harmonizes all of the EIA provisions, and does not seek a strained or awkward reading of a statutory provision in order to advance a particular goal or objective. The best method of advancing the purposes of the EIA is to interpret all of its provisions in a manner that comports with the rules of statutory interpretation, and gives to each its ordinary meaning within the overall context of the EIA. That is what Options A and H do.

The Inquiry also asks for comments on whether the form of the final WAC rules should be exclusive (stating the only means of compliance) or permissive (providing compliance guidance only). This is an important question not only with regard to WAC 194-37-140 but for other WACs seeking to implement provisions of the EIA. To fully answer this question, some background on the role of the Department regarding the EIA is helpful.

The EIA recognizes that the governing body of each qualifying consumer owned utility will make the initial decision on what action its utility must take to comply with the EIA. See, RCW 19.285.040; 19.285.080(2). Once those decisions have been made and implemented, it is the task of the State Auditor’s Office (SAO) to determine if those decisions and actions satisfy the requirements of the EIA, and to direct remedial action if necessary.

It is at this point that the Department comes into play. Pursuant to RCW 19.285.070(1), each qualifying utility must report to the Department annually its progress in meeting the requirements of RCW 19.285.040. As stated in RCW 19.285.070(1), the primary role of the Department is to collect reports on what the qualifying utilities have done to comply with their obligations under the EIA. It is not the role of the Department to promulgate rules that mandate how compliance must be undertaken, to preclude a particular manner of compliance, or determine the meaning of the provisions of the EIA. This limited, non-substantive report gathering role is made clear by RCW 19.285.080(2), which states:

> The department shall adopt rules concerning only process, timelines, and documentation to ensure the proper implementation of this chapter as it applies to qualifying utilities that are not investor-owned utilities.

In prior rulemaking processes it has been suggested that the use of the term "documentation" in RCW 19.285.080(2) imbues the Department with the authority to make determinations regarding the substance of the provisions of the EIA, and to establish by regulation the sole method by which compliance can be achieved, to the exclusion of all other possible approaches. This interpretation of RCW 19.285.080(2) oversteps the boundary between gathering reports and making compliance determinations. As a consequence, it results in the Department usurping the roles reserved for the SAO and the governing bodies of consumer owned utilities, respectively. See, *In re Elec. Lightwave, Inc*., 123 Wash.2d 530, 540, 869 P.2d 1045 (1994); *Wash. Indep. Tel Ass'n v. Telecomm. Ratepayers Ass'n for Cost-Based & Equitable Rates,* 75 Wash. App. 356, 363, 880 P.2d 50 (1994).

It follows that the authority granted to the Department to establish rules on documentation does not carry with it, expressly or by necessary implication, the authority to make substantive determinations on what constitutes compliance with the requirements of the EIA, or to foreclose particular actions taken by a consumer owned utility to achieve such compliance. To do so goes well beyond rules dealing with documentation, and intrudes on the roles of the governing board of consumer owned utilities and the Auditor.

WAC 194-37-140 should provide guidance to qualifying utilities on how they can comply with the statute, without ruling out other methods of doing so which the SAO finds satisfactory. WAC 194-37-140 should contain one or more methods of determining whether load growth has occurred for purposes of complying with RCW 19.285.040(2)(d), and expressly permit other approaches. Clark would recommend the following formulation for WAC 194-37-140:

> For each year that a utility meets the renewable energy financial cost cap, associated with no load growth, identified in RCW 19.285.040(2)(d), the utility must document the following by January 1:

* * * * *

(2) That its average weather-adjusted load in the three previous ~~for the most recent prior~~ years did not increase over the weather-adjusted load in ~~is lower than~~ the ~~third~~ year immediately prior to the three-year period, or some other method of comparison that determines that the weather-adjusted load in the three-year period on average did not increase;

Such a formulation would give qualifying consumer-owned utilities the necessary guidance on how compliance could be achieved, but allow them the latitude to explore other calculations that the SAO might find legally sound.

Sincerely,

Dan Bedbury
Director of Energy Resources

DB

Attachment

ATTACHMENT A

Determining when a utility meets the no-growth standard under the cost cap provision in RCW 19.285.040(2)(d)

Statute [(2)(d)(i)]: “The utility's weather-adjusted load for the previous three years on average did not increase over that time period;”

Rule [194-37-140(2)]: “its weather-adjusted load for the most recent prior year is lower than the third year prior;”

Analysis
Interpretation of these provisions is challenging because (a) the statutory provision does not specify which annual amounts should be averaged together and what the average should be compared to, and (b) the rule provision does not make any use an average.

The following example illustrates how these provisions can be reconciled. This example assumes a utility is demonstrating its eligibility for the no-growth cost cap provision for the 2015 compliance year. The “previous three years” therefore are 2012, 2013, and 2014.

Compliance year:	2015
Prior year:	2014
Second prior year:	2013
Third prior year:	2012

Test:

$$average(2014,2013) \leq average(2013,2012)$$

The test under this approach compares the average of the prior year and the second prior year to the average of the second prior year and the third prior.

This approach complies with the statutory provision because it uses information exclusively from the previous three years, it uses averages, and it determines whether the average values increased within that the specified three-year time frame.

It is not immediately apparent that this approach also complies with the rule provision, because it seems to use more information than the “most recent prior year” and the “third prior year” as stated in the rule. However, by simplifying the expression in the test, it becomes clear that this test also complies with the rule:

Restating the expression in the test:

$$\frac{Year2014 + Year2013}{2} \leq \frac{Year2013 + Year2012}{2}$$

Multiplying each side the expression by 2 yields:

$$Year2014 + Year2013 \leq Year2013 + Year2012$$

The term *Year2013* can be subtracted from each side, yielding:

$$Year2014 \leq Year2012$$

This is the test specified in the rule: The load in the “prior year” (2014) must be no greater than the load in the “third prior year” (2012).

Using the test specified above, the statutory provision and the rule provision are mathematically equivalent.

December 20, 2017

Mr. Glenn Blackmon
Senior Energy Policy Specialist
Washington Department of Commerce
1011 Plum St SE
Olympia, WA 98504

RE: Washington Department of Commerce preproposal statement of inquiry (CR-101) on potential changes to the method of determining whether a utility's weather-adjusted load is growing

Dear Mr. Blackmon,

Renewable Northwest and NW Energy Coalition appreciate the Department of Commerce's ("Commerce") consideration of potential alternatives to the calculation method in WAC 194-37-140(2) for determining whether a utility, for the purposes of Energy Independence Act ("EIA") compliance, is eligible to use the no-growth cost cap method. The undersigned groups support exploring clarifying alternatives, through this rulemaking process, that better align with the EIA and offer greater certainty to utilities and regulatory bodies.

The statute allows a utility to use the no-growth cost cap method only if, "[…] the utility's weather-adjusted load for the previous three years on average did not increase over that time period."[1] In our view, the mathematical expressions offered in options D, E, F, and G are not consistent with the statutory language, as they fail to consider a three-year average against a proper baseline. Options A and B include a baseline year (2014 in the mathematical example) that arguably falls outside of the 3-year time period referenced in the statute.

Renewable Northwest and NW Energy Coalition believe that option C best reflects the statutory language by measuring the weather-adjusted load in the previous three years against a baseline of the earliest year within the three-year window. In addition to offering a reasonable and permissible construct of the statutory provision, option C aptly works towards the advancement and overall purpose of the EIA and lends itself to simple, straightforward administration. In our view, option C also better accomplishes the objectives of consistency, simplicity, clarity, and harmony with the statutory language than the existing rule. For the reasons articulated above, Renewable Northwest and NW Energy Coalition support the adoption of proposed alternative C.

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[1] RCW 19.285.040(2)(d).

We thank Commerce for its efforts to better align WAC 194-37-140(2) with the statutory language and intent. We look forward to further engagement throughout this rulemaking process.

Sincerely,

Amanda Jahshan
WA Policy Advocate
Renewable Northwest

Joni Bosh
Senior Policy Associate
NW Energy Coalition

December 29, 2017, 2017

Submitted via email to: glenn.blackmon@commerce.wa.gov

Glenn Blackmon
Washington State Department of Commerce
1011 Plum Street SE
P.O. Box 42525
Olympia, WA 98504

Re: Rulemaking inquiry – possible clarification or amendment of the method for determining whether a utility's weather-adjusted load is growing

The Public Utility District No. 1 of Cowlitz County (Cowlitz PUD) respectfully submits these comments in response to the request for comments dated November 27, 2017.

Introduction to the Issue

RCW 19.285.040(2)(d) implemented by WAC 194-37-140 is unclear relative to the comparison of periods. It is our understanding that commerce seeks to provide clarity to utilities complying or planning to comply with the law under the load loss provisions as outlined in RCW 19.285.040(2)(d).

> RCW 19.285.040(2)(d) - A qualifying utility shall be considered in compliance with an annual target in (a) of this subsection if:
> (i) The utility's weather-adjusted load for the previous three years on *average* did not increase over that time period;
>
> WAC 194-37-140 - For each year that a utility meets the renewable energy financial cost cap, associated with no load growth, identified in RCW 19.285.040 (2)(d), the utility must document the following by January 1:
> (2) That its weather-adjusted load for the most recent prior year is lower than the third year prior;
> (Unrelated sections removed)

As illustrated in the provisions above the WAC fails to incorporate the use of an average in any way.

Alternative Approaches
In response to the development of "alternative approaches"; it is Cowlitz PUD's belief that Commerce does not have the ability to implement or administer "alternatives". It is however within the scope of Commerce to provide guidance to utilities on which methods comport with the law including the use of a mathematical average as set forth while not confining utilities to only said methods.

Request for Comments

> *"Stakeholders who believe the method currently in rule should be retained….."*

Cowlitz PUD believes the method currently described in the WAC does not adequately represent the language in the RCW and does not oppose Commerce providing additional guidance in line with their authority.

> *"Stakeholders who believe that the rule should not prescribe a specific calculation method or that the rule should provide multiple alternatives……promote the overall purpose of the Energy Independence Act."*

Cowlitz PUD believes the RCW is written to allow for multiple mathematical paths to compliance. The WAC should illustrate the latitude in the RCW while offering clarity to the utilities and the SAO on one or multiple paths that align with the requirements.

Cowlitz PUD believes the issue of promoting the overall purpose of the EIA through the interpretation of single provisions within the law is flawed. The EIA can only be viewed as a collection of language.

Conclusion
Cowlitz PUD appreciates the work and consideration that Commerce has put into this issue. We look forward to continuing work on developing sufficient guidance for how utilities can document compliance with RCW 19.285.040 while respecting the authority of the local governing board and the SAO.

If you have any questions about our comments, please do not hesitate to contact us.

Sincerely,

Chris Roden
Director of Regulatory and Regional Affairs
Cowlitz PUD

Blackmon, Glenn (COM)

From: Ted Light <light@eesconsulting.com>
Sent: Friday, December 29, 2017 11:50 AM
To: COM DL Energy Independence Act
Cc: Steve Andersen; Amber Nyquist
Subject: Comments on Calculation of Utility Load Growth

Mr. Blackmon,

While EES Consulting does not have a position on which of the load growth calculation methods is used, we wish to submit comments that may be helpful to the rulemaking.

First, the second paragraph under "Alternative Approaches" contains a typo. We believe that it should say "…and compares that average to the weather-adjusted load value in ~~2012~~ 2014."

Further, several of the options provided are equivalent and could be simplified, combined, or eliminated. Option B is mathematically equivalent to stating that "2017 ≤ 2014." This is similar to the Existing method, with the exception of the reference year being 2015 vs. 2014, and the allowance of equal values. Similarly, Option E is mathematically the same as the Existing method.

Finally, another option that Commerce may wish to consider is one in which a series of sequential years are compared. For example, Commerce may require that the weather-adjusted loads show no growth in two out of the three most recent sequential year comparisons. In other words, two out of the following three must be true:

- 2017 ≤ 2016
- 2016 ≤ 2015
- 2015 ≤ 2014

This method could be extended to additional years if desired (e.g. three out of four of recent sequential-year comparisons). This method allows for some variability between years, which seems to be the intent of the options provided. Additionally, use of this method would not allow unusually large or small years to weight or skew the comparison. By allowing for one year of flexibility, Commerce may provide encouragement for utilities to continue robust energy efficiency efforts, and allow time for planning of when those efforts may need to be increased.

We hope that these comments are helpful.

Sincerely,

Ted Light
Project Manager

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Seattle City Light

December 28, 2017

WASHINGTON STATE DEPARTMENT OF COMMERCE
BY E-MAIL

Dear Mr. Glenn Blackmon,

Seattle City Light thanks you and the department for considering a Rulemaking inquiry into the "no load growth cost cap method" for compliance with the Energy Independence Act (EIA). City Light agrees that the language in the act regarding "utility's weather-adjusted load for the previous three years on average did not increase over that time period" (R.C.W. 19.285.040 (2)(d)(i)) is subject to more than one interpretation. This is the case with many provisions of the law, and City Light and other utilities have worked together to draft and comply with rules in a manner that best serves our customers.

City Light finds that the language in the rule as currently adopted differs significantly from the EIA. City Light encourages Commerce to proceed with the rulemaking within the scope in the November 22, 2017 Preproposal Statement of Inquiry.

When using the example of 2018 as the compliance year, then the "previous three years" are 2015, 2016, and 2017. To make the rule consistent with the EIA, the previous three years are the only ones that should be used for the average and comparison. Commerce's options A and B under consideration in its November 27, 2017 letter include the fourth previous year, which City Light considers to be outside the proper consideration to implement the EIA.

City Light looks forward to working with Commerce and others to finalize a revised rule in time for utilities to submit their status reports to Commerce before June 1, 2018. If you have questions or want more information, please contact Eric Espenhorst at 206-684-3612 or Eric.Espenhorst@Seattle.gov.

Sincerely,

Wayne Morter
Director, Power Management Division
Seattle City Light